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SIPDIS

USDOC FOR 4420/ITA/MAC/MCQUEEN, DAS LEVINE
STATE FOR EB/TPP MASSINGA, FELSING
STATE PASS COPYRIGHT FOR TEPP

STATE PASS USPTO FOR DUDAS, BROWNING, BOLAND, ANTHONY, NESS
STATE PASS USTR FOR MENDENHALL, MCCOY, ESPINEL, CELICO
USDOJ FOR SUSSMAN
DHS/CPP FOR PIZZECK
USPACOM FOR FPA

SENSITIVE
SIPDIS

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SUBJECT: IPR CONFERENCE EXPLAINS HOW TO BRING ADMINISTRATIVE
AND JUDICIAL ACTIONS AGAINST IPR VIOLATORS IN GUANGDONG

¶1. (U) SUMMARY: CHINESE REPRESENTATIVES FROM A VARIETY OF
IPR-RELATED ORGANIZATIONS TOLD US BUSINESSES HOW TO BRING
JUDICIAL AND ADMINISTRATIVE ACTIONS TO PROTECT THEIR IPR AT
A RECENT CONFERENCE IN SHENZHEN. CONFERENCE SPEAKERS
EXPLAINED TO U.S. BUSINESSES THE LEGAL FRAMEWORK IN CHINA
THAT DEALS WITH IPR PROBLEMS, AND HOW TO PROTECT THEIR
INTELLECTUAL PROPERTY. END SUMMARY.

¶2. (U) THE "CHINA-US SEMINAR ON ADMINISTRATIVE AND JUDICIAL
COPYRIGHT PROTECTION PRACTICES," SPONSORED BY THE SHENZHEN
INTELLECTUAL PROPERTY OFFICE AND THE TRADE FACILITATION
OFFICE OF THE U.S. EMBASSY IN BEIJING, AND CO-SPONSORED BY
THE INTERNATIONAL FEDERATION OF THE PHONOGRAPHIC INDUSTRY
(IFPI), THE MOTION PICTURE ASSOCIATION (MPA), THE BUSINESS
SOFTWARE ALLIANCE (BSA), AND MICROSOFT CORPORATION, TOOK
PLACE IN SHENZHEN ON AUGUST 4.

¶3. (U) LIU XU, FROM THE SHENZHEN PUBLIC SECURITY BUREAU,
DISCUSSED THE FIRST TOPIC, "HOW TO PROSECUTE A CRIMINAL
COPYRIGHT CASE FOR INVESTIGATION." IN THIS SPEECH, LIU GAVE
AN OVERVIEW OF THE NECESSARY REQUIREMENTS AND STEPS FOR A
PRIVATE COMPANY TO FILE A COMPLAINT OR CLAIM AGAINST AN
ALLEGED IPR VIOLATOR. LIU STRESSED THAT HAVING SPECIFIC
EVIDENCE IS OF THE UTMOST IMPORTANCE, SINCE VAGUE
ACCUSATIONS WOULD NOT STAND UP TO REVIEW. WANG GUOBIN, IN
HIS SPEECH, "FULLY PERFORMING PROCURATORIAL FUNCTIONS AND
STRENGTHENING COPYRIGHT JUDICIAL PROTECTION," PROVIDED
SIMILAR BACKGROUND INFORMATION ON THE PRACTICES OF
INVESTIGATING COPYRIGHT INFRINGEMENTS.

¶4. (U) IN "THE CHALLENGES FOR RIGHTS HOLDERS OF AUDIO-
VISUAL, FILM, AND TELEVISION PRODUCTS," REPRESENTATIVES FROM
THE SHENZHEN COPYRIGHT AGENCY CENTER EXPLAINED HOW DIFFICULT
IT CAN BE TO PROTECT THE RIGHTS OF MEDIA THAT IS SO EASILY
DISTRIBUTED. THERE ARE MANY WAYS IN WHICH IPR VIOLATIONS
CAN TAKE PLACE, SOMETIMES WITH THE PARTICIPANTS NOT EVEN
REALIZING IT IS HAPPENING, THEY SAID. FOR EXAMPLE, WHEN
KARAOKE EQUIPMENT IS SOLD TO A KARAOKE BAR, IT OFTEN COMES

PRE-LOADED WITH NUMEROUS SONGS. HOWEVER, AS ONE SPEAKER POINTED OUT, "IT IS IMPOSSIBLE FOR OPERATORS OF KARAOKE BARS, AS INDIVIDUAL OPERATORS, TO SOLVE THESE QUESTIONS," SINCE THEY HAVE NO CONTROL OVER WHERE THE PRE-LOADED SONGS COME FROM. THUS IPR VIOLATIONS SOMETIMES BECOME SO INTEGRATED WITH NORMAL BUSINESS PRACTICES THAT THEY BECOME VERY DIFFICULT TO COMBAT. (NOTE: GUANGDONG OFFICIALS ARE CONSIDERING INSTITUTING A PER-SONG FEE FOR KARAOKE USERS. END NOTE.)

15. (U) THE AFTERNOON PORTION OF THE CONFERENCE FEATURED ADDITIONAL INFORMATION ON HOW THE ADMINISTRATION OF IPR PROTECTION WORKS IN GUANGDONG. LI QINGFENG FROM THE COPYRIGHT DIVISION OF THE SHENZHEN INTELLECTUAL PROPERTY OFFICE DISCUSSED THE "PRACTICES OF ADMINISTRATIVE PROTECTION OF COPYRIGHT AND CRIMINAL REFERRALS." JUDGE LUO JIANQING FROM THE SHENZHEN INTERMEDIATE PEOPLE'S COURT EXPLAINED HOW A COPYRIGHT CASE IS ADJUDICATED IN CHINA. AND JUDGE JIANG BO FROM THE SHENZHEN NANSHAN DISTRICT PEOPLE'S COURT GAVE AN INTRODUCTION ON "PRACTICES OF THE COMBINED CIVIL, CRIMINAL, AND ADMINISTRATIVE ADJUDICATION ON IPR CASES."

16. (U) MANY SPEAKERS POINTED OUT THAT EDUCATION IS AN IMPORTANT TOOL IN THE FIGHT AGAINST COPYRIGHT INFRINGEMENT. AS THE REPRESENTATIVE FROM THE MOTION PICTURE ASSOCIATION ARGUED, "THE MOST IMPORTANT THING IS TO AROUSE CONSUMERS TO RESPECT AND SUPPORT IPR, THEREBY CHANGING SOCIAL CULTURE." ACCORDING TO THESE REPRESENTATIVES, PEOPLE MUST LEARN THAT IPR VIOLATIONS WILL NEVER CREATE TAX REVENUES, ENCOURAGE INVESTMENT IN THE PRODUCTION OF FILM AND TV, OR ENCOURAGE CREATIVITY; THE FIGHT AGAINST IPR VIOLATIONS MUST THEREFORE BE BOTTOM-UP AS WELL AS TOP-DOWN.

COMMENT

17. (U) ACCORDING TO AN INFORMAL SURVEY OF THE AUDIENCE, WHICH WAS MOSTLY COMPRISED OF REPRESENTATIVES FROM PRIVATE ENTERPRISES HAVING TO DO WITH FILM, SOFTWARE, MUSIC, TELEVISION, OR OTHER TECHNOLOGY VULNERABLE TO IPR VIOLATIONS, THE BACKGROUND INFORMATION SUPPLIED IN THE

CONFERENCE WAS USEFUL. THE CONFERENCE NOT ONLY GAVE AN OVERVIEW OF SPECIFIC IPR PRACTICES IN CHINA THAT THESE COMPANIES CAN LATER USE TO PROTECT THEIR IPR; MANY SPEAKERS ALSO SUPPLIED PHONE NUMBERS, ADDRESSES, AND E-MAIL ADDRESSES OF IMPORTANT OFFICES THAT DEAL WITH IPR ISSUES. THE FOCUS OF THE CONFERENCE, AND THE ATTENTION ITS ORGANIZERS PAID TO GIVING SPECIFIC INFORMATION, INDICATES THAT THE CHINESE GOVERNMENT IS MOVING BEYOND THE GENERAL RHETORIC ABOUT IPR TOWARD HELPING BUSINESSES UNDERSTAND THE PRACTICAL WAYS, WITHIN CHINA'S CURRENT LEGAL FRAMEWORK, THEY CAN USE TO PROTECT THEIR IPR. END COMMENT.

MARTIN